

REMARKS

Claim 29 is pending. Claims 1-22 were pending and rejected. Claims 1-22 have been canceled, without prejudice. Claim 29 is new. Reconsideration and allowance are respectfully requested.

Claim Rejections – 35 USC § 101

Claims 1-12 were rejected under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter. Claims 1-12 have been canceled, without prejudice.

Claim Rejections – 35 USC § 112

Claims 1-5 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-5 have been canceled, without prejudice.

Claim Rejections – 35 USC § 103

Claims 1-4 were rejected under 35 U.S.C. 103(a) as being unpatentable over Standard (U.S. Patent 6,848,219) in view of Clanton (U.S. Patent 5,524,195), and further in view of Russo (U.S. Patent 5,619,247). Claims 1-4 have been canceled, without prejudice.

Claims 13-14 and 19-22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Standard (U.S. Patent 6,848,219) in view of Fransman (U.S. Patent 7,024,680). Claims 13-14 and 19-22 have been canceled, without prejudice.

Claims 15-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Standard (U.S. Patent 6,848,219) in view of Fransman (U.S. Patent 7,024,680), and further in view of Clanton (U.S. Patent 5,524,195). Claims 15-18 have been canceled, without prejudice.

New Claim

Claim 29 is new.¹ It is directed to a system for playing a motion picture to a plurality of patrons in a theater within a complex of theaters. The system strikes an innovative balance between efficiently utilizing the resources of a theatre and providing a pleasant theater experience by promptly playing the movie.

An input system receives information indicative of the arrival of each of the patrons at the theater. A timing system determines when a predetermined time period has elapsed after the arrival of the first patron. A processing system causes a projector to begin projecting the motion picture at the earlier of two events: (1) the end of the pre-determined delay after the first patron arrives; or (2) when a pre-determined number of patrons has arrived. Both the pre-determined starting delay and the pre-determined patron arrival count are adjusted by the processing system as a function of the time of day, the popularity of the motion picture, and the number of theaters within the complex.

Applicant respectfully submits that the applied art does not disclose such an innovative system, either alone or in combination.

The examiner states on page 8 of the office action that Standard discloses a system for playing a motion picture at a theater to a plurality of patrons and that the theater can be networked to a digital video distribution system. Applicant agrees. Unlike new claim 29, however, Standard does not disclose a system which begins a movie at the earlier of: (1) the end of a pre-determined delay after the arrival of the first patron or (2) when a pre-determined number of patrons has arrived. Standard also does not disclose a system that adjusts both of these pre-determined amounts based on the time of day, the popularity of the motion picture, and the number of theaters within the complex.

¹ Illustrative support for this new claim can be found in original claims 13-22, paragraphs [0056] – [0065] of the original application, and in Figure 1. Should the examiner need a more specific citation for any particular element, the examiner is invited to phone applicant's attorney Marc E. Brown at 310-788-1569 who will then promptly provide it.

Fransman does not make up for these deficiencies in Standard. Fransman is directed to supplying videos to individual subscribers, not the projection of movies at a theater. Fransman discloses that videos may be shown "on demand" or at a "staggered start." Neither approach waits a pre-determined delay after the first patron arrives, nor until a pre-determined number of patrons arrive, let alone until the first of these occur, as required by new claim 29. To the contrary, the "on demand" approach begins the movie on demand, which may not even be when a subscriber enters a viewing room. Similarly, the "staggered start" approach begins the movie at time intervals which are also unrelated to when patron arrives at a theatre. Fransman also does not disclose a processing system which adjusts a pre-determined starting delay or a pre-determined patron arrival count based on the time of day, the popularity of the motion picture, or the number of theaters within a complex, let alone adjusting both amounts based on all three criteria, as required by new claim 29.

The examiner states on page 8 that "Fransman discloses a processing system configured to cause the projector to begin projecting the motion picture a pre-determined time period after the first of the plurality of patrons arrives at the theater." Applicant respectfully disagrees. Applicant respectfully submits that the skilled artisan would not discern such a disclosure from Fransman. As noted above, the "staggering" disclosed by Fransman is not keyed to the arrival of a patron. Although it may result in a subscriber seeing a moving quickly, it is a different approach, one which is far more wasteful of movie-delivery assets. (Unlike the invention of new claim 29, it requires devoting multiple channels to simultaneously transmitting the same movie.) The fact that Fransman is "automatic," provides "content management," "begins projecting . . . when a movie . . . [is] sent from a server," provides "asset management," "tracks the status of video data," or plays a movie on demand, as noted by the examiner on pages 23-24 of the office action, does not constitute a disclosure of the features of new claim 29 which are missing from Standard.

In fact, there are thousands of systems which could be described by the broad language in Fransman which the examiner has cited. That does not make this language anticipatory of each one of these systems. To the contrary, a generic disclosure does

not anticipate each of its species. Were the law otherwise, the mere disclosure of a "computer system" could be cited as a disclosure of every possible configuration of a computer system, a result that would be inconsistent with the educational purpose of our patent system.

The examiner has stated at various other locations in the office action that the features of now-canceled claims 14-22 were also disclosed in Fransman and/or Clanton. However, new claim 29 recites a more specific embodiment of each of these features. Further, Applicant respectfully submits that the skilled artisan would not find the features in these canceled claims to have been disclosed by the language which the examiner has cited. To the contrary, this language is very general and could broadly be descriptive of thousands of system. Again, a generic disclosure does not anticipate each of its species.

One example is now-canceled claim 14. This claim required the processing system to cause the projector to begin playing the movie after a pre-determined number of patrons arrived at the theater, if before expiration of the predetermined delay after the arrival of the first patron. The language in Fransman which the examiner cited merely discloses making a movie-playing schedule which repeats the movie without gaps or overlaps and allocating limited storage capacity effectively. The skilled artisan would not interpret this language to be a disclosure of the feature claimed by now-canceled claim 14.

To be sure, combining the quoted features of Standard, Fransman, and Clanton does not result in the system recited in new claim 29. For example, the combined system would still not have:

1. An input system configured to receive information indicative of the arrival of each patron at a theater.
2. A timing system configured to determine when a predetermined time period has elapsed after the arrival of the first patron at a theater.
3. A processing system configured to cause a projector to begin projecting a motion picture at the earlier of: (a) a pre-determined delay after the arrival of the first

patron at a theater; or (b) when a pre-determined number of patrons has arrived at a theater.

4. A processing system configured to adjust both a pre-determined starting delay and a pre-determined patron arrival count based on the time of day, the popularity of a motion picture, and the number of theaters in a movie complex.

These are innovative features of new claim 29 which are not taught by the applied references, either alone or in combination.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this application is now in condition for allowance and early notice of the same is earnestly requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper or any other paper or matter in this application, including extension of time fees, to Deposit Account 501946, and please credit any excess fees to such deposit account.

Respectfully submitted,
McDERMOTT WILL & EMERY LLP

Marc E. Brown, Registration No. 28,590
**Please recognize our Customer No. 33401
as our correspondence address.**

2049 Century Park East, 38th Floor
Los Angeles, CA 90067
Phone: (310) 277-4110
Facsimile: (310) 277-4730
Date: May 22, 2009